

SHUA CITY PLANNING BOARD
June 4, 2020

The regularly scheduled meeting of the Nashua City Planning Board was held on June 4, 2020 at 7:00 PM via Webex virtual meeting.

Members Present: Scott LeClair, Chair
 Adam Varley, Vice Chair
 Mike Pederson, Mayor's Rep.
 Ed Weber, Secretary
 Dan Hudson, City Engineer
 Maggie Harper
 Larry Hirsch

Also Present: Linda McGhee, Deputy Planning Manager
 Scott McPhie, Planner I
 Chris Webber, Department Coordinator

COVID-19 Address

Mr. LeClair addressed the COVID-19 pandemic as follows: Due to the State of Emergency declared by Governor Sununu as a result of COVID-19 pandemic and in accordance with the Governor's Emergency Order #12, pursuant to Executive Order 2020-04, this public body is authorized to meet electronically until further notice.

Please note that there is no physical location to observe and listen contemporaneously to the meeting, which was authorized to meet electronically pursuant to the Governor's order. However, in accordance with the Emergency Order, this is to confirm that we are:

1. Access

The Board is providing public access to the meeting by telephone, with additional access possibilities by video or other electronic access means.

The Board is video conferencing utilizing Webex for this electronic meeting. All members of the Planning Board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to listen to this meeting by dialing (978)-990-5298, with password 273974.

Public access to this meeting is also provided via Webex. The link to this meeting is contained in the meeting agenda, available on the city website. The meeting can be streamed thru the city's website on Nashua Community Link and also on Channel 16 on Comcast.

2. Public Notice

The Board previously gave public notice to the meeting and the necessary information for accessing the meeting through public postings, and where applicable notice to abutters. Instructions have also been posted to the city website, and publicly noticed at City Hall.

3. Public Alert

The Board is providing a mechanism for the public to alert the Board during the meeting if there are problems with access. If anybody has a problem accessing the meeting via phone or channel 16, please call (603)-821-2049, and they will help you connect.

4. Adjourning the Meeting

In the event that the public is unable to access the meeting via the methods above, the meeting will be adjourned and rescheduled.

5. Procedures

The Chair is in control of the meeting, and to the extent practicable and advisable the Board will follow the procedures identified in the Bylaws. The applicant will present the applicant's case, followed by questions by the Board. The Chair will then allow testimony from persons wishing to speak in favor, or with questions or opposition, before the Board deliberates and determines an outcome.

Applicants and their representatives, and individuals required to appear before the Board are appearing remotely, and are not required to be physically present. These individuals may contact the Planning Department to arrange an alternative means of real time participation if they are unable to use Webex. Documentary exhibits and/or visual presentations must be submitted in advance of the meeting so that they may be displayed for remote public access viewing.

Real-time public comment can be addressed to the Board utilizing Webex virtual meeting software for remote access. Real-time public comments via audio will be addressed at the conclusion of the public hearing. This application will allow users to view the meeting, and submit questions or comments to the Board utilizing the Webex software.

The public is also encouraged to submit their comments via email to the Department email at planningdepartment@nashuanh.gov or by mail. Please be sure to include your name, address, and comments. Letters should be addressed to Planning Department, P.O. Box 2019, Nashua, NH 03061.

Please note that all votes taken during this meeting will be done by roll call. Planning Board meetings will be held electronically until further notice, when it is deemed safe to conduct meetings at City Hall.

The Planning Department and Board thank you for your understanding and patience during this difficult time.

Approval of Minutes

None

COMMUNICATIONS

Ms. McGhee went over the following items that were received after the case packets were mailed:

- Email from Street Construction Engineer Joe Mendola re: Case #1
- Email from abutter re: Case #1
- Email from Atty. Andy Prolman re: Case #1

REPORT OF CHAIR, COMMITTEE & LIAISON

Historic District Commission: Mr. Weber gave a report of the April 20, 2020 meeting; a training meeting for Webex.

OLD BUSINESS - CONDITIONAL/SPECIAL USE PERMITS

None

OLD BUSINESS - SUBDIVISION PLANS

None

OLD BUSINESS - SITE PLANS

None

NEW BUSINESS - CONDITIONAL/SPECIAL USE PERMITS

None

NEW BUSINESS - SUBDIVISIONS

None

NEW BUSINESS - SITE PLANS

1. Paragon Properties, LLC (Owner) - Application and acceptance of proposed site plan to construct a four unit condominium development with associated site improvements. Property is located at 122 Manchester Street. Sheet 59 - Lot 135. Zoned "RA" Urban Residence. Ward 2.

MOTION by Mr. Varley that the application is complete and the Planning Board is ready to take jurisdiction.

SECONDED by Mr. Pedersen

MOTION CARRIED 7-0

Chad Branon, Project Engineer, Fieldstone Land Consultants, 206 Elm St, Milford NH

Mr. Branon introduced himself to the Board as representative for the applicant. He also introduced Atty. Andy Prolman, Prunier & Prolman PA.

Mr. Branon gave a presentation of the proposal. This is a proposed condominium style development for 4 single-family detached homes. He described the location, physical aspects, and zoning of the lot. He indicated the proposed house locations and limited common areas.

Mr. Branon said as a condominium development this is considered one lot, so the north and south property lines have a 10-ft building setback. Since the proposed homes will be oriented

towards the central street with the back yards facing north and south, they propose to maintain a minimum 25-ft setback to the abutting properties. This will allow for a layout that is in harmony with the surrounding neighborhood.

Mr. Branon gave a detailed description of the road, to be called Paddington Place. He said that it has been thoroughly reviewed by the Fire Department to make sure that the design met their standards. They believe this road will provide a safe and reasonable access to the units. They are requesting a waiver from NRO §190-211(B), which sets minimum design standards for private streets width. They believe a 28-ft road width would be excessive for a 4-unit condominium.

Mr. Branon outlined the utility connections. He presented a grading plan which showed stormwater management infrastructure, and described it in detail.

Mr. Branon said this property does have a fair amount of history. He doesn't want to speak about the prior proposals for this site, but he believes that this proposal is reasonable. Their client has focused on balancing the many concerns that have been raised by abutters in the past, generally to do with buffering and land management.

Mr. Branon said they are also providing a "no cut" buffer on the south side of the site. That area will encompass the majority of the steep slope for the project, and they will maintain those slopes in an undisturbed fashion. One of the goals of this project was to situate the development to minimize impact to those slopes, so those land disturbing activities would not cast further up the slope, and so they could provide buffering for the residential properties to the south.

Mr. Branon said they are also working with the abutting property to the southeast, 120 Manchester St. The abutter has submitted a letter to the Board outlining his concerns. He said that his client is willing to remove the trees along the shared boundary with this abutter. The abutter was also concerned about the setback of one of the units, and he said they will be maintaining a minimum 25-ft setback. There will be decks as permitted under the land use code, and they do not want to restrict the future homeowner from having a back yard area. They propose to construct a 75-ft stockade fence along the rear yard portion of the site to provide a hard separation.

Mr. Branon said they are not opposed to any of the recommendations and findings in the staff report. He outlined the two waivers requested, the first for road dimensions and the second from NRO §190-88, which requires a light plan.

Mr. LeClair asked him to confirm that the first waiver is only for road width.

Mr. Branon said correct. He explained at length the dimensional requirements and how they have addressed them.

Mr. LeClair asked for an explanation of the lighting waiver.

Mr. Branon said they didn't believe there was a real need for street lighting here. They are tucked away between two neighborhoods. He said there will be house lights, so he thinks there will be adequate lighting for the road way.

Andy Prolman, Prunier & Prolman PA, 26 Trafalgar Sq, Nashua NH

Atty. Prolman said that he shared a copy of their draft conservation easement with Mr. Littlefield of 120 Manchester St, and Gary Wingate of 15 Sherman St. He asked that the Board consider a condition of approval that the easement be reviewed by Planning staff and Corporation Counsel before it gets recorded at the Registry.

Mr. Varley said given that the setbacks would ordinarily be 10-ft and that they have agreed to maintain a 25-ft, is that something that would be reflected in the condominium documents?

Atty. Prolman said yes. That was a condition of approval from the Zoning Board variance. It will be included in the Declaration of Condominium, and in the rules and regulations. When the houses are located by the builder onsite, they will have to be no less than 25-ft from the side yard setbacks. That will be in the draft that staff and Corporation Counsel see.

Mr. Varley asked if that would apply going forward. If someone proposed an addition to a house, would that be something they are subject to?

Atty. Prolman said correct. It doesn't apply to decks or patios, but it does apply to the house.

Mr. Pedersen asked for clarification on the house orientation.

Mr. Branon said the rear of the homes face the sideline setbacks of the lot, which is why they are proposing 25-ft setbacks.

Mr. Weber asked if during building permit, the setbacks for the foundation would be shown to the inspector.

Mr. Branon said correct.

Mr. Weber asked if these units would have 2 or 3 bedrooms. He said he finds more and more people park on the street in these developments despite what is allowed, and with the 20-ft road proposed that is very dangerous.

Mr. Branon said at the request of the Fire Marshal, "No Parking" signs have been added to the road and turn around area. He said all of these homes have a two car garage, and each driveway should have at least two spaces. They feel they are providing enough spaces within each limited common area, and the Fire Dept. was comfortable with the 20-ft wide road. He said the 28-ft width is only a function of anticipated on-street parking. He thinks they have built those details into the design, and that is primarily through working with the Fire Dept.

Mr. Weber asked if the property owner has talked with the church across the way to ask permission to use the parking area if there is a party.

Mr. Branon said he is not aware of it. It could be done, but he said in this particular design there is no curbing along the driveway. There is a great potential on and off the road for parking. He said they meet and exceed the standards set in the regulations.

Mr. Weber said he appreciates the ability to have four cars in each condominium.

Ms. Harper asked if the units would have basements, or be built on a slab.

Mr. Branon said he anticipates that these would have basements.

Ms. Harper said she finds that houses built on a slab lack the storage that homeowners need, and use the garage for that.

Mr. Hudson said he would like to add language for "No Dumping" to the conservation easement. He finds that common areas tend to be dumping grounds for yard waste.

Mr. Branon said they can certainly do that.

SPEAKING IN OPPOSITION OR CONCERN

Jeff Eckberg, 128 Manchester St

Mr. Eckberg said asked how high the stockade fencing will be. He said the property has not been maintained in years and the over brush is significant. He said he finds himself doing a lot of work to trim back that property itself. He asked what the landscaping would look like.

Mr. LeClair asked if he is referring to the fencing on the southeast portion of the site.

Mr. Eckberg said he is on the north side. He requested fencing on his side.

Mark Littlefield, 120 Manchester St: via email, submitted into the record.

SPEAKING IN FAVOR - REBUTTAL

Chad Branon, Fieldstone Land Consultants

Mr. Branon displayed the landscaping plan. He said the site will be cleaned up. They are proposing landscaping in front of each of the units and street trees along Manchester St. He said they are not proposing to take down any of the fencing along the northern property line, but they will be cleaning up the interior of the site. He said there will be no stormwater making its way to that stockade fence, and it will be left intact. He said there will be no residents within the first 200-ft of the road on that side, and it will be loamed and seeded.

Mr. LeClair asked for specific details on the location of the proposed fencing.

Mr. Branon said they are proposing fencing along Unit #1, by 120 Manchester St. He indicated its extent on the plan.

Mr. LeClair asked if there would be plantings to continue after that.

Mr. Branon said those are the existing trees that the abutter asked them to remove. They have agreed to do that.

Mr. LeClair said a question came in from an abutter asking about the fence abutting 11 Danbury Rd. He asked the applicant to speak to that.

Mr. Branon said they are not proposing any changes or alterations, so that fence line would remain intact on the entire north side.

Mr. LeClair asked if the fence was right on the boundary.

Mr. Branon said yes. It is right on the boundary, and in some instances not on the property. The orientation of the fence implies that it might not even be their fence.

Mr. LeClair said he received a comment stating that the fence is in poor condition. He asked if Mr. Branon could speak to the base of the "no cut" area in terms of current topography and what the plan is for stabilization.

Mr. Branon showed the grading plan. He said the tree line is the proposed limit of disturbance, and they have positioned everything so do not disturb the steep slope. Anything they do disturb would be stabilized primarily with loam and seed.

Mr. LeClair said a comment from an abutter indicates they believe the fence is a part of 122 Manchester St. He asked what the intended height of the buildings would be.

Mr. Branon said they are proposed to be 2-story buildings, a standard colonial design.

Mr. LeClair relayed an audience comment asking if it was possible for the conservation easement to not allow fires.

Atty. Prolman said that is fine. He spoke with Mr. Wingate, and the main concern is fire pits. They didn't want to overburden the easement, but that is fine.

Mr. Varley asked if the audience commenters could speak in turn.

SPEAKING IN OPPOSITION OR CONCERN - REBUTTAL

Mr. LeClair said there is a comment in chat asking if the fence along 11 Danbury Dr. could be removed due to the condition.

Mr. Branon said he supposes his client would consider it if it was a condition issue.

Mr. Weber asked if it needs to be found who the fence belongs to, that needs to be cleaned up. If it belongs to the homeowner there needs to be language in the condominium documents that the owners must maintain the existing fences around the property.

Atty. Prolman said he has no objection to that.

Mr. LeClair closed the public hearing and moved into the public meeting.

Mr. Varley said this property has had a fairly long history before the Board. This is the third time the property has been before them with some kind of proposal since his time on the Board. He has heard abutter concerns on the previous applications, and he believes that the applicant has made an effort to take those concerns into consideration and design a plan that tries to address the issues raised in the past as best as possible. He said this is borne out by the fact that there are relatively fewer concerns by abutters this time around.

Mr. Weber said he also has been here for a few applications, and he thinks this really does increase the value of the properties around the area. It makes a nice, cleaner area. He thinks the buffer is an excellent idea and will make it look nice compared to all the other situations.

Mr. LeClair summarized the hearing and addressed the recommended stipulations.

Mr. Hudson asked if stipulation #9 applies if this road is not to be adopted as a public road.

Mr. Weber said they have had problems with private roads not being up to snuff. A third party needs to come in and inspect the undersurface and the way it's being put down.

Mr. LeClair asked if he doesn't believe it has to be an engineer not selected by the city?

Mr. Weber said he is fine with the stipulation as worded.

Mr. Hudson said if there is history associated with this he has no objection to it.

Mr. LeClair said that in the past a third-party engineer was selected by the city for some degree of separation. It could be the engineer of record as far as he is concerned.

Mr. Weber recommended "prior" be added to stipulation #11

MOTION by Mr. Varley to approve New Business - Site Plan #1. It conforms to § 190-146(D) with the following stipulations or waivers:

1. The request for a waiver of § 190-211(B), which sets minimum design standards for private streets width, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. The request for a waiver of NRO § 190-88, which requires a light plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. Prior to the Chair signing the plan, minor drafting corrections will be made.
4. Prior to the Chair signing the plan, all comments in an e-mail from Joe Mendola, Street Construction Engineer, and dated June 4, 2020 shall be addressed to the satisfaction of the Engineering Department.
5. Prior to the Chair signing the plan, all conditions from the Planning Board approval letter will be added to the cover page of the final mylar and paper copies submitted to the City.
6. Prior to the issuance of a building permit, all comments in an e-mail from Rapaglia dated April 22, 2020 shall be addressed to the satisfaction of the Fire Marshal.
7. Prior to the issuance of a building permit, the electronic file of the plan will be submitted to the City of Nashua.
8. Prior to the issuance of a building permit, condominium documents will be submitted to City Staff and Corporation Counsel for review and approval.
9. Road and driveway construction shall be to base course, with final course pavement remaining bonded until completion. Upon completion of construction, the applicant shall provide the City Engineer with written certification signed by a licensed professional engineer certifying the private street and driveways were designed and installed as per the plan. Inspection reports shall be filed with the City Engineer's Office and the Planning Department.
10. Prior to the issuance of the first Certificate of Occupancy, "No Parking" signs shall be posted as per the Fire Marshal's e-mail dated April 22, 2020.

11. Prior to issuance of the final Certificate of Occupancy for the development, an as-built plan locating all roads, driveways, units, other buildings, utilities and site landscaping shall be completed by a professional engineer and submitted to the Planning Department. The as-built plan shall include a statement that all construction was generally completed in accordance with the approved plan and applicable local regulations.
12. Prior to the issuance of the last Certificate of Occupancy, all site improvements will be completed.
13. All stipulations of the Zoning Board of Adjustment dated February 12, 2020 are incorporated herein.

SECONDED by Mr. Weber

Mr. Varley said he is not including the recommendations for the condominium documents and easement in the motion because he believes they were adequately discussed in the public record.

Mr. LeClair agreed. He led a brief discussion with the Board in regards to the language of stipulation #9.

SECOND WITHDRAWN by Mr. Weber

Mr. Varley amended his motion to read as follows:

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SECONDED by Mr. Weber

MOTION CARRIED 7-0

OTHER BUSINESS

1. Review of tentative agenda to determine proposals of regional impact.

MOTION by Mr. Weber that there are no items of regional impact

NCPB

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SECONDED by Mr. Varley

MOTION CARRIED 7-0

DISCUSSION ITEMS

Mr. Weber said he is in contact with the Nashua Regional Planning Commission with the potential impact of the Hudson Amazon facility. The Hudson planner said they sent a traffic report, but it has not been received. He has serious concerns about the impact.

MOTION to adjourn by Mr. Weber at 8:08 PM.

MOTION CARRIED 7-0

APPROVED:

Mr. LeClair, Chair, Nashua Planning Board

DIGITAL RECORDING OF THIS MEETING IS AVAILABLE FOR LISTENING DURING REGULAR OFFICE HOURS OR CAN BE ACCESSED ON THE CITY'S WEBSITE. DIGITAL COPY OF AUDIO OF THE MEETING MAY BE MADE AVAILABLE UPON 48 HOURS ADVANCED NOTICE AND PAYMENT OF THE FEE.

Prepared by: Kate Poirier

Taped Meeting